

ORIGINAL



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Richard L. Sallquist  
Sallquist, Drummond & O'Connor, P.C.  
4500 South Lakeshore Drive  
Suite 339  
Tempe, Arizona 85282  
Phone: (480) 839-5202  
Fax: (480) 345-0412

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AZ CORP COMMISSION  
DOCUMENT CONTROL

Arizona Corporation Commission 41

DOCKETED

DEC - 5 2006

DOCKETED BY	<i>JS</i>
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**BEFORE THE ARIZONA CORPORATION COMMISSION**

IN THE MATTER OF THE APPLICATION  
OF JOHNSON UTILITIES COMPANY FOR  
AN EXTENSION OF ITS CERTIFICATE OF  
CONVENIENCE AND NECESSITY FOR  
WASTEWATER SERVICE.

DOCKET NO. WS-02987A-04-0288

**COMMENTS ON  
RECOMMENDED ORDER**

Johnson Utilities, LLC, ("Johnson" or the "Company") hereby files its comments on the Recommended Opinion and Order issued October 19, 2006 in anticipation of the December 12, 2006 Procedural Conference on this matter.

1. On March 14, 2006, Johnson filed an Application to Amend Decision No. 68236 (the "Decision") requesting authority to file a Letter of Credit for \$500,000 in lieu of filing a Performance Bond as required by the Decision.

2. On April 21, 2006 the Commission Staff filed Staff's Respond to Motion to Amend Decision No. 68236 indicating that the Letter of Credit "conforms sufficiently to the ordered Performance Bond to be acceptable".

3. Subsequently the Commission determined that an evidentiary hearing was necessary to discuss the differences between Letters of Credit and Performance Bonds. During the course of that hearing, the Company's Executive Vice President, Brian P. Tompsett, testified,

51030.00000.1907

1 among other things, that the Company was having difficulty obtaining a Performance Bond and  
2 that due to that difficulty and the higher cost, the Company had filed the subject Letter of Credit.  
3 Also during that hearing, expert witnesses for both parties testified that the Letter of Credit was  
4 in many ways superior to the Performance Bond, but suggested certain revisions to the form of  
5 the Letter of Credit.

6 4. At the conclusion of the hearing, the Administrative Law Judge directed the  
7 parties to meet off the record and to submit recommended forms of language for the Letter of  
8 Credit and the ordering paragraphs in the requested Amended Decision. The parties did in fact  
9 meet, but Johnson and Staff could not agree upon the language. Therefore, the Company and  
10 Staff submitted separate recommendations on October 5, 2006, and October 10, 2006,  
11 respectively. The Administrative Law Judge issued his Recommended Opinion and Order (the  
12 "ROO") on October 19, 2006 adopting, in concept, the Staff's recommendations.

13 5. In response to the ROO, on October 30, 2006 the Company filed a "Motion  
14 Requesting a Procedural Conference" seeking clarification of certain issues raised in the ROO.  
15 That Motion was set for the Commission's consideration at the November 21, 2006 Open  
16 Meeting, but was subsequently "pulled" from that Agenda.

17 6. On November 28, 2006, the Administrative Law Judge issued a Procedural Order  
18 setting a Procedural Conference on this matter for December 12, 2006.

19 7. In the interim, and in an effort to expedite and simplify this matter, the Company  
20 has pursued the Performance Bond as originally contemplated by the Decision. Immediate  
21 posting of this bond will permit the Company to more timely serve the areas in the expanded  
22 Certificated areas. On November 30, 2006, the Company was able to obtain the Performance  
23 Bond. That Performance Bond was filed with the Director of the Utilities Division as required

1 by the Decision, and docketed with the Commission on December 4, 2006. A copy of that bond  
2 is attached hereto as Attachment 1. That filing meets the compliance requirements in accordance  
3 with the Decision.

4 8. The Company is aware of the Commission's interest in using performance  
5 bonds/or letters of credit as security vehicles to assure performance in certain instances.  
6 Therefore, the Company is willing and able to appear at the scheduled Procedural Conference to  
7 further discuss these matters. It is the desire of the Company to come to a resolution of using  
8 performance bonds/or letters of credit in the generic context. However, the Company believes it  
9 is in the best interest of the Company and its customers to commence direct billing to these new  
10 customers as soon as possible. The bond filing places the Company in compliance so that billing  
11 can start as of December 1, 2006. Despite the Company's filing of the required Performance  
12 Bond in compliance with Decision No. 68236, the Company believes the language set forth in  
13 that Recommend Order is incorrect, inappropriate, and/or offensive, and the following objections  
14 should be noted for the record. Although these objections are specific to the subject ROO's, they  
15 may be helpful in the generic context.

16 9. There was no legal opinion expressed by counsel for the parties or by the expert  
17 witnesses indicating that the Letter of Credit or Performance Bond proceeds could not be  
18 utilized by the Commission because those funds would be required to be deposited in the State  
19 of Arizona's General Fund. There was speculation in that regard, but the Company was of the  
20 opinion that issue, among others, would be addressed by the Commission outside of this Docket  
21 in a generic Docket opened specifically to consider letter of credit/performance bond issues.  
22 The ROO attempts to resolve that uncertainty with a draconian provision. It states in part "The  
23 Commission may use the Letter of Credit funds to protect the Company's customers and the

1 public interest and take any and all actions the Commission deems necessary, in its discretion,  
2 including, but not limited to, appointment of an interim operator." (Page 9, Line 24) That  
3 language suggests some impropriety by the Company requiring "protection" from the Company,  
4 and effectively permits the Commission to confiscate the Company. That has no basis in fact, is  
5 unprecedented, and is no doubt unconstitutional.

6 10. The ROO finds the Company's proposal of a simple procedure which will assure  
7 continued service to the customers and permit reasonable draws upon the Letter of Credit to be  
8 "unacceptable". The proposal does not "change significantly the purpose of the original  
9 performance bond requirement". The Decision establishes the operative event for drawing on  
10 the bond is "any potential detrimental impact on customers that may occur as a result of a  
11 judgment against Mr. Johnson and/or Johnson affiliates". The Company proposal merely  
12 identifies three simple, straight forward events to trigger the draw on the Letter of Credit: (1)  
13 tying it to an unsuccessful defense of the litigation, (2) restating the Decision's language that  
14 that the unsuccessful defense impacts on the customer, i.e., results in inadequate service, and (3)  
15 provides the owners of the Company with the opportunity to provide an unlimited amount of  
16 additional funds to assure adequate service. This proposal is not unreasonable or a "significant  
17 change" to the Decision. It is a logical, reasonable commercial procedure to comply with the  
18 purpose of the Decision.

19 11. The ROO also fails to acknowledge a fact clearly in the record. It continues to  
20 reference the "Sonoran and La Osa" litigations as potential detriments to customers. Brian  
21 Tompsett, the Company's Executive Vice President, testified under oath that the Sonoran  
22 litigation had been settled. It is unfortunate that his sworn testimony, which was unchallenged  
23 on the record, was not believed. The complete status of the litigation as mandated by the

1 Decision, including the Settlement Agreement, was filed in this and the related dockets on April  
2 7, 2006, well before the subject evidentiary hearing. Attached hereto as Attachment 2 is the  
3 Pinal County Superior Court Order dismissing the matter with prejudice and indicating that  
4 matter has been settled. Any reference to the Sonoran litigation in the ROO should be stricken.

5 12. The final ordering paragraph in the ROO is not based upon anything in the record  
6 and is incredibly insulting to the Company and its owner. It assumes a bankruptcy of the  
7 Company, Mr. Johnson, or one of his entities. As of December 31, 2005 the Company had over  
8 \$80 million in Assets, over \$10 million in Revenues, and over 13,000 water and wastewater  
9 customers. Mr. Johnson has amply demonstrated to all governmental regulators, to the  
10 development community, and to his customers, that he has and will make the necessary  
11 investment to provide the "adequate service" referenced in the Decision. To suggest possible  
12 bankruptcy to the public (including customers, the development and banking communities) with  
13 Mr. Johnson's 30 plus years of successfully operating utility companies, and an even longer  
14 record as a successful businessman with more than adequate resources to effectively meet any  
15 circumstances that may arise, is obviously very offensive and inappropriate. That entire  
16 provision should be stricken from the Recommended Order.

17 WHEREFORE, the Company notes for the record the Company's objections to the form  
18 of Recommended Order.  
19  
20  
21  
22  
23

1  
2 RESPECTFULLY submitted this 4<sup>th</sup> day of December 2006.

3 SALLQUIST, DRUMMOND & O'CONNOR, P.C.

4  
5 By:  \_\_\_\_\_

6 Richard L. Sallquist

7 4500 South Lakeshore Drive, Suite 339

8 Tempe, Arizona 85282

9 Phone: (480) 839-5202

10 Fax: (480) 345-0412

1  
2 Original and fifteen copies of the  
3 foregoing filed this 4<sup>th</sup> day  
of December 2006:

4 Docket Control  
5 Arizona Corporation Commission  
6 1200 West Washington  
Phoenix, Arizona 85007

7 A copy of the foregoing  
8 mailed/hand delivered this  
4th day of December 2006, to:

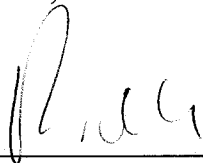
9 Brian C. McNeil  
10 Arizona Corporation Commission  
Executive Secretary  
11 1200 West Washington Street  
Phoenix, Arizona 85007

12 Hearing Division  
13 Arizona Corporation Commission  
1200 West Washington  
Phoenix, Arizona 85007

14 Utilities Division  
15 Arizona Corporation Commission  
1200 West Washington  
Phoenix, Arizona 85007

16 Legal Division  
17 Arizona Corporation Commission  
1200 West Washington  
18 Phoenix, Arizona 85007

19 Sheryl Sweeney  
20 Ryley, Carlock & Applewhite, P.A.  
One North Central, Suite 1200  
Phoenix, Arizona 85004

21  
22   
23

# Accredited

A Property & Casualty Insurer Since 1971

Bond No. 10054804

## Bond

Know All Men By These Presents, That we, Johnson Utilities, L.L.C., as Principal and Accredited Surety and Casualty Company, Inc., A Florida corporation authorized to do business in the State of Arizona, as Surety are held and firmly bound unto the Arizona Corporation Commission in the amount of Five Hundred Thousand and 00/100 (\$500,000), lawful money of the United States of America for the payment of which the Principal and Surety are hereby jointly and severally bound.

Now Therefore, if the said Principal, or any assigns of his fails to provide competitive water and sewer services so furnished and fails to cure the fault within 30 days of the notice from the Arizona Corporation Commission, the said Surety will pay the same to the users of the Principal with the consent of the Arizona Corporation Commission as Trustee, an amount not exceeding the sum hereinabove specified, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

Provided Further, that regardless of the number of years this bond shall continue in force and the number of premiums which shall be payable or paid, the Surety shall not be liable thereunder for a larger amount, in the aggregate, than the amount of the bond.

Provided Further, that should the Surety so elect, this bond may be cancelled by the Surety as to subsequent liability by giving thirty (30) days notice in writing by certified mail to Obligee.

Signed, sealed and dated this 30th day of November 2006.

Johnson Utilities, L.L.C.

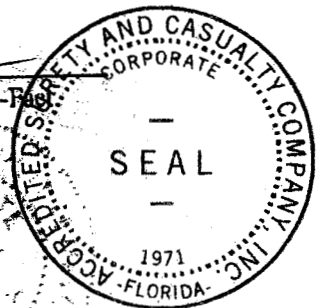
Accredited Surety and Casualty Company, Inc

By: 

By: 

Rosita Ciccolini

Attorney-In-Fact



Accredited Surety and Casualty Company, Inc.  
400 South Park Avenue, Suite 320 . Winter Park, FL 32789  
P. O. Box 1630, Winter Park, FL 32790-1630

(888) 668 2791  
(407) 629 2562  
Fax (407) 629 4553

ATTACHMENT 1



ACCREDITED SURETY AND CASUALTY COMPANY, INC.

WINTER PARK, FLORIDA

CERTIFIED POWER OF ATTORNEY No. 10054804

**KNOW ALL MEN BY THESE PRESENTS:** That Accredited Surety And Casualty Company, Inc. herein after referred to as "Accredited" a Florida corporation, having its principal office at 400 Park Avenue South Suite 320, Winter Park, Florida, does hereby make, constitute and appoint:

ROSITA CICCOLINI

JAMES R. OLSEN

HOPE EAVES OLSEN

Its true and lawful Attorney(s)-in-fact, with full power and authority hereby conferred to each in their separate capacity if more than one is named above, to sign, execute and deliver on its behalf surety bonds and other instruments of similar nature excluding bail bonds not to exceed:

**Five Hundred Thousand Dollars (\$500,000)**

The acknowledgment and execution of any such document by the said Attorney-in-Fact shall be as binding upon this company as if such bond has been executed and acknowledged by the regularly elected officers of this company. Accredited further certifies that the power is a true and exact copy of the resolution of the Board of Directors of Accredited duly adopted and now in force, to wit: "ALL bonds of the corporation shall be executed in the corporate name of the company by the President, Vice-President, Secretary, or any Assistant Secretary and they may appoint Attorneys-in-fact or agents, who shall have authority to issue bonds in the name of the Company."

IN WITNESS WHEREOF, the said ACCREDITED SURETY AND CASUALTY COMPANY, INC. has caused these presents to be executed by its authorized officer the 30 day of November, 2006

ACCREDITED SURETY AND CASUALTY COMPANY, INC.

Corporate Seal



By:

*L. Samir Jallad*

L. Samir Jallad, Vice-President

State of Florida } SS

County of Orange } SS

On this 30 day of November, 2006, before me, a Notary Public, personally appeared the above named officer who is personally known to me, and being duly sworn, acknowledged that he signed the above Power of Attorney as President or Vice-President of the said ACCREDITED SURETY AND CASUALTY COMPANY, INC., and acknowledged said instrument to be the voluntary act of said corporation.

SARA RUSSELL  
NOTARY PUBLIC - STATE OF FLORIDA  
COMMISSION # DD324595  
EXPIRES 5/31/2008  
BONDED THRU 1-888-NOTARY1

*Sara Russell*

Notary Public, State of Florida

I, the undersigned, officer of Accredited, do hereby certify that this is a true, correct and Certified copy of Power of Attorney. In testimony whereof, I have hereunto set my hand and the seal of Accredited which is still in full force effective this \* 30<sup>th</sup> day of November, 2006. Signed and sealed at the City of Winter Park, Florida.

ACCREDITED SURETY AND CASUALTY COMPANY, INC.

By:

*L. Samir Jallad*

L. Samir Jallad, Vice-President



**\*IMPORTANT:** This date must be filled in before it is attached to the bond and it must be the same date as the bond.

**NOTE:** For confirmation of this authority, please contact our underwriting Department at 1 888 668 2791.

**NOTICE:** Originals of this power of attorney are printed on security paper.

# CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

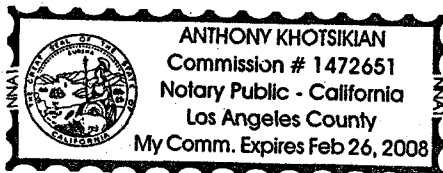
State of CALIFORNIA } ss.

County of LOS ANGELES } ss.

On 11/30/2006, before me, Anthony Khotsikian - NOTARY PUBLIC,  
Date Name and Title of Officer (e.g., "Jane Doe, NOTARY PUBLIC")

personally appeared Rosita Ciccolini- ATTORNEY-IN-FACT,

- ☒ personally known to me  
☐ proved to me on the basis of satisfactory evidence



to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Place Notary Seal Above

Signature of Notary Public

## OPTIONAL

*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

### Description of Attached Document

Title or Type of Document: Bond #: 10054804

Document Date: 11/30/2006 Number of Pages: -02-

Signer(s) Other Than Named Above: \_\_\_\_\_

### Capacity(ies) Claimed by Signer

Signer's Name: \_\_\_\_\_

- ☐ Individual  
☐ Corporate Officer - Title(s): \_\_\_\_\_  
☐ Partner - ☐ Limited ☐ General  
☒ Attorney in fact  
☐ Trustee  
☐ Guardian or Conservator  
☐ Other: \_\_\_\_\_

RIGHT THUMBPRINT  
OF SIGNER  
Top of Thumb here

Signer is Representing: ACCREDITED SURETY AND CASUALTY CO.

FILED FINAL COUNTY  
SUPERIOR COURT  
KATHY YOUTSEY RUIZ CLERK

FEB 24 2006

1 Lat J. Celmins (004408)  
2 Michael L. Kitchen (019848)  
3 **MARGRAVE CELMINS WHITEMAN, P.C.**  
4 8171 East Indian Bend, Suite 101  
5 Scottsdale, Arizona 85250  
6 Telephone (480) 994-2000  
7 Facsimile (480) 994-2008  
8 *Attorneys for Defendants George H. Johnson*  
9 *and Jana Johnson and Boulevard Contracting Company, Inc.*

**SUPERIOR COURT OF ARIZONA  
COUNTY OF PINAL**

10 **LENNAR COMMUNITIES**  
11 **DEVELOPMENT, INC.,** an Arizona  
12 corporation,

13 **Plaintiff,**

14 **v.**

15 **SONORAN UTILITY SERVICES, L.L.C.,**  
16 an Arizona limited liability company;  
17 **GEORGE H. JOHNSON and JANE**  
18 **DOE JOHNSON,** husband and wife;  
19 **BOULEVARD CONTRACTING**  
20 **COMPANY, INC.,** an Arizona  
21 corporation; **PINAL COUNTY BOARD**  
22 **OF SUPERVISORS,** a political  
23 subdivision of the State of Arizona;  
24 **LIONEL D. RUIZ,** in his capacity as a  
25 member of the Pinal County Board of  
26 Supervisors; **SANDIE SMITH,** in her  
27 capacity as a member of the Pinal  
28 County Board of Supervisors; **DAVID**  
**SNIDER,** in his capacity as a member  
of the Pinal County Board of  
Supervisors; **JIMMIE KERR,** in his  
capacity as a former member of the  
Pinal County Board of Supervisors;  
**THE 387 WATER IMPROVEMENT**  
**DISTRICT,** a Pinal County  
Improvement District and a political  
subdivision of the State of Arizona;  
**THE 387 WASTEWATER**  
**IMPROVEMENT DISTRICT,** a Pinal  
County Improvement District and a  
political subdivision of the State of  
Arizona,

**Defendants.**

Case No. CV200600012

**ORDER**

*(Assigned to the Honorable  
William J. O'Neil)*

1 GEORGE H. JOHNSON, a married  
2 man

3 v.

4 Counterclaimant,

5 LENNAR COMMUNITIES  
6 DEVELOPMENT, INC., an Arizona  
7 corporation; LENNAR CORPORATION,  
8 a Delaware corporation; ALAN JONES  
9 and JANE DOE JONES, husband and  
10 wife; MARK BITTEKER and JANE DOE  
11 BITTEKER, husband and wife; JOHN  
12 SUTHERLAND and JANE DOE  
13 SUTHERLAND, husband and wife;  
14 JOHN DOES and JANE DOES 1-X;  
15 ABC PARTNERSHIPS 1-X; ABC  
16 LIMITED LIABILITY COMPANIES; XYZ  
17 CORPORATIONS 1-X,

18 Counterdefendants,

19 Pursuant to the parties' Stipulation and good cause appearing therefor,

20 IT IS ORDERED that the above-entitled action shall be and is dismissed  
21 with prejudice as to all claims against Defendants George H. Johnson and Jana  
22 Johnson and Boulevard Contracting Company, Inc. only, and as to all  
23 counterclaims filed by George Johnson against Lennar Communities  
24 Development, Inc., Lennar Corporation, Alan Jones and Jodie Jones, husband  
25 and wife, Mark Bittaker and Tamara Bittaker, husband and wife, and John  
26 Sutherland, and an Order of Dismissal be entered accordingly, each party to bear  
27 its own attorney's fees and costs.  
28

WILLIAM J. O'NEIL

Honorable William J. O'Neil  
Judge of the Superior Court



1 Lat J. Celmins (004408)  
2 Michael L. Kitchen (019848)  
3 MARGRAVE CELMINS WHITEMAN, P.C.  
4 8171 East Indian Bend, Suite 101  
5 Scottsdale, Arizona 85250  
6 Telephone (480) 994-2000  
7 Facsimile (480) 994-2008  
8 Attorneys for Defendants George H. Johnson  
9 and Jana Johnson and Boulevard Contracting Company, Inc.

FILED PINAL COUNTY  
SUPERIOR COURT  
WEST YOUTEY RUIZ CLERK

FEB 23 2006

6 SUPERIOR COURT OF ARIZONA  
7 COUNTY OF PINAL

8 LENNAR COMMUNITIES  
9 DEVELOPMENT, INC., an Arizona  
10 corporation,

Case No. CV200600012

11 Plaintiff,

12 STIPULATION FOR DISMISSAL  
13 WITH PREJUDICE AND  
14 ORDER

15 v.

(Assigned to the Honorable  
William J. O'Neil)

16 SONORAN UTILITY SERVICES, L.L.C.,  
17 an Arizona limited liability company;  
18 GEORGE H. JOHNSON and JANE  
19 DOE JOHNSON, husband and wife;  
20 BOULEVARD CONTRACTING  
21 COMPANY, INC., an Arizona  
22 corporation; PINAL COUNTY BOARD  
23 OF SUPERVISORS, a political  
24 subdivision of the State of Arizona;  
25 LIONEL D. RUIZ, in his capacity as a  
26 member of the Pinal County Board of  
27 Supervisors; SANDIE SMITH, in her  
28 capacity as a member of the Pinal  
County Board of Supervisors; DAVID  
SNIDER, in his capacity as a member  
of the Pinal County Board of  
Supervisors; JIMMIE KERR, in his  
capacity as a former member of the  
Pinal County Board of Supervisors;  
THE 387 WATER IMPROVEMENT  
DISTRICT, a Pinal County  
Improvement District and a political  
subdivision of the State of Arizona;  
THE 387 WASTEWATER  
IMPROVEMENT DISTRICT, a Pinal  
County Improvement District and a  
political subdivision of the State of  
Arizona,

Defendants.

1 GEORGE H. JOHNSON, a married  
2 man

3 v.

4 Counterclaimant,

5 LENNAR COMMUNITIES  
6 DEVELOPMENT, INC., an Arizona  
7 corporation; LENNAR CORPORATION,  
8 a Delaware corporation; ALAN JONES  
9 and JANE DOE JONES, husband and  
10 wife; MARK BITTEKER and JANE DOE  
11 BITTEKER, husband and wife; JOHN  
12 SUTHERLAND and JANE DOE  
13 SUTHERLAND, husband and wife;  
14 JOHN DOES and JANE DOES 1-X;  
15 ABC PARTNERSHIPS 1-X; ABC  
16 LIMITED LIABILITY COMPANIES; XYZ  
17 CORPORATIONS 1-X,

18 Counterdefendants.

19 Lennar Communities Development, Inc., Lennar Corporation, Alan and  
20 Jane Doe Jones, Mark and Jane Doe Bittaker, John and Jane Doe Sutherland,  
21 George and Jana Johnson, and Boulevard Contracting Company, Inc. (collectively  
22 the "Parties"), through their respective counsel, hereby stipulate that the above-  
23 entitled action has been settled by the Parties. All claims against George H.  
24 Johnson and Jana Johnson and Boulevard Contracting Company, Inc. only, and  
25 all counterclaims filed by George Johnson against Lennar Communities  
26 Development, Inc., Lennar Corporation, Alan and Jodie Jones, Mark and Tamara  
27 Bittaker, John Sutherland shall be dismissed *with* prejudice and the parties  
28 request that an Order of Dismissal be entered accordingly, each party to bear its  
own attorney's fees and costs. This dismissal relates to the aforementioned  
Parties only, and has no effect on any claim pending against any other party to  
the lawsuit.

1 DATED this 17th day of February, 2006.

2  
3 BEUS GILBERT

4 Leo Beus  
5 Attorneys for Lennar  
6 Communities Development,  
7 Inc., Lennar Corporation  
8 Alan Jones and Jodie Jones,  
9 Mark Bittker and Tamara  
10 Bittker and John Sutherland

MARGRAVE CEMINS WHITEMAN, P.C.

Lat J. Celmins  
Michael L. Kitchen  
Attorneys for Johnson and  
Boulevard Contracting Company, Inc.

9 COPY of the foregoing mailed/  
10 hand-delivered this 17th day  
of February, 2006 to:

11 Honorable William J. O'Neil  
12 FINAL COUNTY SUPERIOR COURT  
13 971 North Jason Lopez Circle, Bldg. A  
Florence, Arizona 85232

14 James M. Jellison  
15 SCHLEIER JELLISON SCHLEIER, P.C.  
3101 North Central, Suite 1090  
Phoenix, Arizona 85012

16 Lawrence C. Wright  
17 WRIGHT & ASSOCIATES  
Suite 3500 Financial Plaza  
1201 South Alma School Road  
18 Mesa, Arizona 85210

19 Thomas K. Irvine  
20 IRVINE LAW FIRM, P.C.  
1419 North Third Street, Suite 100  
Phoenix, Arizona 85004

23 N:\WFSO\JOHNSON\LENNAR\Stipulation Dismissal.wpd  
February 17, 2006

1 **BEUS GILBERT PLLC**  
2 **ATTORNEYS AT LAW**  
3 **4808 NORTH SCOTTSDALE ROAD**  
4 **SUITE 6000**  
5 **SCOTTSDALE, ARIZONA 85251**  
6 **TELEPHONE (480) 429-3000**

7 **Leo R. Beus/AZ Bar No. 002687**  
8 **Linnette R. Flanigan/AZ Bar No. 019771**

9 *Attorneys for Plaintiff*

10 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**  
11 **IN AND FOR THE COUNTY OF PINAL**

12 **LENNAR COMMUNITIES**  
13 **DEVELOPMENT, INC., an Arizona**  
14 **corporation,**

15 **Plaintiff,**

16 **vs.**

17 **SONORAN UTILITY SERVICES, L.L.C., an**  
18 **Arizona limited liability company; GEORGE**  
19 **H. JOHNSON and JANE DOE JOHNSON,**  
20 **husband and wife; BOULEVARD**  
21 **CONTRACTING COMPANY, INC., an**  
22 **Arizona corporation; PINAL COUNTY**  
23 **BOARD OF SUPERVISORS, a political**  
24 **subdivision of the State of Arizona; LIONEL**  
25 **D. RUIZ, in his capacity as a member of the**  
**Pinal County Board of Supervisors; SANDIE**  
**SMITH, in her capacity as a member of the**  
**Pinal County Board of Supervisors; DAVID**  
**SNIDER, in his capacity as a member of the**  
**Pinal County Board of Supervisors; JIMMIE**  
**KERR, in his capacity as a former member of**  
**the Pinal County Board of Supervisors; THE**  
**387 WATER IMPROVEMENT DISTRICT, a**  
**Pinal County Improvement District and a**  
**political subdivision of the State of Arizona;**  
**THE 387 WASTEWATER IMPROVEMENT**

**Case No.: CV 2006 00012**

**NOTICE OF SETTLEMENT**



1 DISTRICT, a Pinal County Improvement  
2 District and a political subdivision of the State  
3 of Arizona,

4 **Defendants.**

5 NOTICE IS HEREBY GIVEN that Plaintiff Lennar Communities Development, Inc.  
6 and Defendants Pinal County Board of Supervisors, the 387 Water Improvement District, the  
7 387 Wastewater Improvement District, Lionel D. Ruiz, Sandie Smith, David Snider, and  
8 Jimmie Kerr have reached a settlement of this matter. Once the parties finalize all settlement  
9 documentation, a Stipulation for Dismissal will be submitted to the Court.

10 DATED this 21<sup>st</sup> day of February 2006.

11 BEUS GILBERT PLLC

12 By Linnette R. Flanigan  
13

14 Leo R. Beus  
15 Linnette R. Flanigan  
16 4800 North Scottsdale Road  
17 Suite 6000  
18 Scottsdale, AZ 85251  
19 Attorneys for Plaintiff  
20  
21  
22  
23  
24  
25

1 Original of the foregoing filed and a  
2 copy mailed this 21st day  
of February 2006 to:

3 Honorable William J. O'Neil  
4 Pinal County Superior Court  
5 Division I  
6 P.O. Box 847  
Florence, AZ 85232

7 Copy of the foregoing mailed this 21st  
day of February 2006 to:

8 Lawrence C. Wright  
9 **WRIGHT & ASSOCIATES**  
10 Suite 3500 Financial Plaza  
1201 South Alma School Road  
Mesa, AZ 85210

11 Thomas K. Irvine  
12 **IRVINE LAW FIRM, P.A.**  
13 1419 North Third Street, Suite 100  
Phoenix, AZ 85004  
14 *Attorneys for Defendant Sonoran*

15 James M. Jellison  
16 **SCHLEIER JELLISON SCHLEIER, P.C.**  
3101 North Central, Suite 1090  
Phoenix, AZ 85012  
17 *Attorney for Defendants Pinal County Board of Supervisors & The 387 Districts*

18 Lat J. Celmins  
19 Blake E. Whiteman  
20 Michael L. Kitchen  
Margrave Celmins, P.C.  
8171 East Indian Bend, Suite 101  
Scottsdale, AZ 85250  
21 *Attorneys for Defendants Johnson & Boulevard*

22  
23 *Wusa & Rahn*  
24  
25